

[Counsel identified on signature pages]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WYNN COGGINS, et al.,

Defendants.

CASE NO. 5:20-cv-05799-LHK

**STIPULATION AND [PROPOSED]
ORDER REGARDING STAY OF
FURTHER PROCEEDINGS ON
PLAINTIFFS' MOTION TO COMPEL**

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties to this action, by their respective
 2 counsel, respectfully submit the following Joint Stipulation, and respectfully request that the
 3 Court issue the following order:

4 WHEREAS, on January 15, 2021, the Court entered the parties' Stipulation and Order
 5 Regarding Census and Population Counts and 21-Day Stay of Proceedings ("Stipulation and
 6 Order"), ECF No. 456;

7 WHEREAS, the Stipulation and Order provided for a 21-day stay of this case, beginning
 8 January 15, 2021 and ending February 5, 2021, except with respect to Plaintiffs' Renewed
 9 Motion to Compel, ECF No. 433, which remained pending before the Magistrate Judge Panel;

10 WHEREAS, on January 28, 2021, the Magistrate Judge Panel issued a decision granting
 11 Plaintiffs' Renewed Motion to Compel and directing Defendants to produce certain data and a
 12 declaration by February 1, 2021 at 9:00 a.m. Pacific Time, ECF No. 462;

13 WHEREAS, the Magistrate Judge Panel further ordered any objection to the decision
 14 must be filed "within 48 hours of this order [*i.e.*, by January 30, 2021 at 12:35 PM Pacific Time]
 15 or a different deadline, if set by Judge Koh";

16 WHEREAS, the parties are engaged in ongoing discussions regarding what future
 17 proceedings may be appropriate in this case in light of certain actions recently taken by the new
 18 Administration, including Executive Order 13986 of January 20, 2021, 86 FR 7015, titled
 19 "Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial
 20 Census," *see* ECF No. 461, and the Census Bureau's announcement that it is currently scheduled
 21 to complete apportionment counts by April 30, 2021¹;

22 WHEREAS, Defendants have recently provided Plaintiffs some additional information
 23 and represented to Plaintiffs that they are committed to shortly providing calculations and
 24 aggregate charts to Plaintiffs that will serve to reduce the need for detailed summary data reports
 25 by providing Plaintiffs with specific calculations and answers to their requests for information
 26 regarding NRFU enumeration metrics, outcome measures and process indicators/paradata;

27
 28 ¹ Census Bureau Statement on Apportionment Counts (Jan. 28, 2021),
<https://www.census.gov/newsroom/press-releases/2021/statement-apportionment-counts.html>.

1 WHEREAS, in an effort to reduce inefficiencies for all parties and the Court—including
 2 through reducing the need for additional judicial direction by the Court, avoiding the delays of
 3 potential appeal, and reducing the need to potentially assess multiple sets of data as Defendants
 4 continue to process the data received from field operations—Plaintiffs are willing to continue
 5 working with Defendants in an effort to resolve these data issues without further Court
 6 intervention;

7 WHEREAS, the parties agree that it is in the interest of both the parties and the public for
 8 the parties to continue to focus their efforts on those ongoing discussions and to stay further
 9 proceedings on Plaintiffs' Motion to Compel for 7 days to allow those discussions to continue
 10 and for Defendants to start providing Plaintiffs with specific information regarding the relevant
 11 calculation and aggregate charts they have agreed to provide;

12 NOW, THEREFORE, THE PARTIES JOINTLY STIPULATE, AND RESPECTFULLY
 13 REQUEST THAT THE COURT ORDER, AS FOLLOWS:

14 That the Court enter a 7-day stay of further proceedings on Plaintiffs' Motion to Compel
 15 and for Sanctions, effective beginning January 29, 2021 and ending on February 5, 2021. If the
 16 stay is lifted, any objection to the Magistrate Judge Panel's decision on Plaintiffs' Renewed
 17 Motion to Compel would be due on February 6, 2021 at 11:59 PM Pacific Time. If Defendants
 18 file an objection, the Magistrate Judge Panel's order that Defendants produce certain data and a
 19 declaration will be stayed pending the Court's decision on the objection. If Defendants do not
 20 file an objection, Defendants shall produce the data and declaration specified in the decision by
 21 February, 8, 2021 at 9:00 a.m. Pacific Time.

22
 23 Dated: January 30, 2021

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10 **ATTESTATION**

11 I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this
12 document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred
13 in this filing.

14 Dated: January 30, 2021

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[PROPOSED] ORDER

The stipulation is GRANTED.

PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: _____

Honorable Lucy H. Koh
United States District Judge